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September 7, 2001

Mary L. Cottrell, Secretary  
Department of Telecommunications & Energy  
Commonwealth of Massachusetts  
One South Station, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02110

**Re: D.T.E. 01-31 – Alternative Regulation**

Dear Ms. Cottrell:

Pursuant to the Hearing Officer's Notice of August 28, 2001, Verizon Massachusetts ("Verizon MA") responds to the "Motion of AT&T Communications of New England, Inc. to Compel Discovery Responses by Verizon Massachusetts, or, in the Alternative, AT&T's Motion to Strike Testimony of Robert Mudge and William E. Taylor" ("Motion to Compel"). AT&T's request should be denied.<sup>1</sup> Verizon MA's responses to Information Requests ATT-VZ 1-1 and 1-2(a) qualify as "trade secret" or "confidential, competitively sensitive, proprietary" information under Massachusetts and federal law and are entitled to protection from disclosure to parties other than the Department in this proceeding.<sup>2</sup>

The attachment to the response to Information Request ATT-VZ 1-1 identifies a list of all competitive carriers that appear in the "Company ID" field referenced in Verizon MA's response to Information Request AG-VZ 2-5, part g. The requested data are the confidential and proprietary information of the relevant competitive carriers and

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<sup>1</sup> By letter dated August 30, 2001, to the Hearing Officer, AT&T's counsel explained that the parties "tentatively have reached agreement" on Information Request ATT-VZ 1-3. AT&T's Motion to Compel, therefore, pertains solely to Information Requests ATT-VZ 1-1 and 1-2(a). Should AT&T renew its request to compel further response to Information Request ATT-VZ 1-3, Verizon MA reserves its right to respond as appropriate.

<sup>2</sup> On August 27, 2001 Verizon MA filed a Motion for Confidential Treatment regarding Information Requests ATT-VZ 1-1 and 1-2. Verizon MA relies on and incorporates by reference the legal and other supporting arguments set forth in its Motion for Confidential Treatment.

may not be disclosed by Verizon MA without the carriers' authorization. The information, accordingly, was provided only to the Department and to those parties to whom the carriers' authorized disclosure.<sup>3</sup>

Attachment 1 to Information Request ATT-VZ 1-2(a), in turn, provides a list of competitive local exchange carriers with E911 listings by class of service, as of May 2000. Specifically, Attachment 1 provides a list of classes of service (residence, business, residence PBX, business PBX, Centrex, coin one-way, coin two-way, mobile, residence off-premises extension and business off-premises extension) and the specific carriers, if any, that have E911 listings for each class of service. The requested data are the confidential and proprietary information of the competitive providers that may not be disclosed by Verizon MA without the carriers' authorization. The information, accordingly, was provided only to the Department and to those parties to whom the carriers' authorized disclosure.

As explained in Verizon MA's Motion for Confidential Treatment, the data responsive to Information Request ATT-VZ 1-1 and 1-2(a) represent valuable commercial information that competitors could find useful in establishing sales and network strategies that target particular market segments. In her Ruling of August 29, 2001, the Hearing Officer very recently provided protective treatment to similar third-party data, explaining that:

I agree with VZ-MA that its response to AG-VZ-1-8 involves third-party specific data which could jeopardize the competitive position of a service provider who is not a party to this proceeding. Unless RCN waives protection and grants VZ-MA permission to publicly disclose this information, I grant VZ-MA's Motion to treat the materials submitted attached to AG-VZ 1-8 as confidential, proprietary materials.

Ruling dated August 29, 2001 at 4.<sup>4</sup>

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<sup>3</sup> One carrier, for example, authorized Verizon MA to disclose relevant information to the Attorney General. Verizon MA provided the information.

<sup>4</sup> The attachment to AG-VZ 1-8 identified the number of wholesale services, grouped by area code, that RCN had purchased from Verizon MA, and information related to RCN's licensing of poles and conduits. In her Ruling of August 29, the Hearing Officer also granted protective treatment to, among other things, the attachment to AG-VZ 2-18, which identified data concerning Verizon MA's residential resold lines by class of service. See Ruling dated August 29, 2001 at 4. ("Lastly, I agree that VZ-MA's response to AG-VZ-2-18 contains service-specific commercial data that is confidential, proprietary information.")

The third-party data contained in Verizon MA's responses to Information Requests ATT-VZ 1-1 and 1-2(a) are similarly confidential and proprietary information of the relevant carriers.

The proprietary attachments to Information Requests ATT-VZ 1-1 and 1-2(a) have been made available to the Department for its review and inspection. Contrary to AT&T's claims, Verizon MA is responding reasonably to relevant discovery requests in the Department's investigation of the sufficiency of competition. AT&T's contention that Verizon MA is purportedly refusing to "provide the basis" for its reliance on E911 database information is simply misplaced.<sup>5</sup> Indeed, AT&T acknowledges the confidential and proprietary nature of carrier-specific data in its *own* motion for protective treatment of AT&T-specific information. AT&T requested that proprietary information included in the testimony of one of its witnesses be granted the "highest level" of protection because it is "competitively sensitive and highly proprietary."<sup>6</sup> The proprietary information of AT&T's third-party competitors is likewise entitled to the "highest level" of protective treatment.

In summary, AT&T's Motion to Compel should be denied for the reasons stated above. Should the Department, however, nonetheless conclude that disclosure of proprietary and confidential third-party carrier information should be disclosed to other competitors in this proceeding (with which the Company respectfully disagrees), Verizon MA will timely comply, subject to mutually agreeable protective agreements.

Thank you for your attention to this matter.

Very truly yours,

/s/Victor D. Del Vecchio

Victor D. Del Vecchio

cc: Paula Foley, Esquire, Hearing Officer (2)  
Michael Isenberg, Esquire, Director-Telecommunications Division  
Attached Service List

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<sup>5</sup> Verizon MA explained the nature of its responsive attachments and its understanding of the E911 database in various discovery responses. *See, e.g.*, AG-VZ 2-5 (certain types of service not usually listed in the E911 database); ATT-VZ 1-1 (CLEC list does not include Verizon MA, wireless carriers or independent companies); and ATT-VZ 1-3 (supplemental) (carriers responsible to provide listings in the E911 database).

<sup>6</sup> "Motion of AT&T Communications of New England, Inc. for Protective Treatment of Confidential Information" dated August 24, 2001 at 1. The testimony that AT&T seeks to protect provides the percentage of customers AT&T services using its own facilities and using equipment and facilities leased from other carriers. *See* AT&T Motion for Protective Treatment at 2.